

COPIED 1

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- - - - - X

JUDITH H. WEISS,

Plaintiff,

against,

FRANCES M. CREEM and BETTY M. OLSON,

Defendants.

- - - - - X

DATED: January 21, 2008
Poughkeepsie, New York
2:20 p.m. - 3:00 p.m.

Patrick M. DeGiorgio, Reporter

DEPOSITION

OF

KRISTOFER BARNHART

(A Non-Party Witness)

MARY T. BABIARZ COURT REPORTING SERVICE, INC.
(845) 471-2511

1

BARNHART

8

2

A. No.

3

Q. I notice you brought a copy of a police
accident report. Have you had a chance to
take a look at that before coming here
today?

6

A. Yes.

8

Q. Is that a two-page document?

9

A. Yes.

10

Q. For Identification purposes today that's
been marked as Defendant's Exhibit B. I'll
have you take a look at both of those
documents in a second, but before I have you
do that, do you have an independent
recollection of an accident which occurred
on Route 32 north on September 18th, 2006 in
the Town of Rosendale?

17

A. Yes.

19

Q. Can you tell me, sir, what your independent
recollection is about that accident?

21

A. There was construction in the area, I don't
remember what for. I got called for an
accident, a woman came down and struck a
vehicle that was stopped due to the
construction zone. That was about it.

1

BARNHART

11

2

Q. From looking at the report, can you tell
what the colors of those cars were?

4

A. No. It's not on here, no.

5

Q. Does that refresh your recollection as to
what the colors of the car were?

7

A. No. It was too long ago.

8

Q. When you arrived at the scene, can you tell
me the relevant positions of the cars?

10

A. There were -- they were in the northbound
lane then, right in the lane itself.

12

Q. The northbound lane of Route 32 in the area
of the accident, is that one lane, two lanes
or something else?

15

A. One lane.

16

Q. How about in the southbound direction of
that location, one lane, two lanes or
something else?

19

A. Two lanes.

20

Q. Do you recall the weather that day?

21

A. Just clear. There was nothing, no snow or
anything like that, no rain.

23

Q. Do you know if the weather was a factor in
the accident at all?

25

A. No, it was not.

1

BARNHART

13

2

in one vehicle and one person in the other?

3

A. Yes.

4

Q. Do you recall which had which?

5

A. I'd have to look at the report. Frances Creem in one vehicle and Betty Olson and Judith was Weiss in the second vehicle.

3

7

Q. Who was driving in the Olson/Weiss vehicle?

9

A. Olson.

10

Q. Can you describe Miss Olson?

11

A. No. It was too long ago.

12

Q. Can you describe Miss Weiss?

13

A. Too long ago.

14

Q. How about Miss Creem, can you describe her?

15

A. Too long ago.

16

Q. Do you recall having a conversation with Miss Creem about how the accident took place?

19

A. Could I look at the report?

20

Q. Sure.

21

A. Vaguely I remember her telling me about the brakes not working properly.

23

Q. Do you know if that came from Miss Creem or some other source?

25

A. I believe Miss Creem.

1

BARNHART

32

2

A. We can print out and exchange information
for the drivers, but you have to bring it
back to the station to get it approved by
the supervisor.

6

Q. All the information that is on B was
generated at the scene?

8

A. Yes.

9

Q. The second page, diagram on the exhibit,
Exhibit B, that's put down to your
description of the actual accident, not
where you found the vehicles when you
arrived; correct?

14

A. Yes. That would be the description that
they gave me of what happened, I put it on
the diagram.

17

Q. You indicated that there are boxes to
indicate causative factors on the report,
Exhibit B; correct, but you just don't know
which -- you don't have the code for the
causing factors with you today?

22

A. Correct.

23

Q. Do you recall which boxes on the report are
causative factors and for which vehicle?

25

A. It would be up on the right hand side up

1

BARNHART

33

2

here somewhere.

3

Q. That would be the one 19, 20, 21 and 22?

4

A. Yes. Somewhere in there is the -- I'm not positive exactly which one it is.

5

Q. So whatever 42 is, you put down 42, that would correspond to a causative factor, on box number 19 on the right-hand side?

6

A. If 19 is that corresponding box. It's one of these here. I'm not positive which one.

7

MR. KONDULIS:

8

I have no further questions.

9

MR. O'SHAUGHNESSY:

10

I have one follow-up.

11

CONTINUED EXAMINATION BY MR. O'SHAUGHNESSY:

12

Q. As part and parcel of your investigation of an accident scene, would you also look to examine whether a vehicle had a proper inspection?

13

A. Yes.

14

Q. Would you also look to see if a car had a proper registration?

15

A. Yes.

16

Q. And a valid license?

17

A. Yes.

Local Codes		
06-1166		
6SRPD4000047		

POLICE ACCIDENT REPORT

MV-104A (3/04)

19
42 AMENDED REPORT20
-

1	Accident Date	Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene	Left Scene	Police Photos
	Month Day Year	Monday	15:00	2	3	0	Accident Reconstructed	<input type="checkbox"/>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

21
-

VEHICLE 1

2	VEHICLE 1 - Driver License ID Number	797784887	State of Lic.	NY	VEHICLE 2 - Driver License ID Number	300433039	State of Lic.	NY
---	--------------------------------------	-----------	---------------	----	--------------------------------------	-----------	---------------	----

22
-

3	Driver Name - exactly as printed on license				OLSON, BETTY M			
---	---	--	--	--	----------------	--	--	--

23
-

4	Address (Include Number and Street)				Address (Include Number and Street)			
---	-------------------------------------	--	--	--	-------------------------------------	--	--	--

24
-

5	City or Town				State Zip Code			
---	--------------	--	--	--	----------------	--	--	--

25
-

6	Date of Birth	Sex	Unlicensed	No. of Occupants	Public Property Damaged	Date of Birth	Sex	Unlicensed	No. of Occupants	Public Property Damaged
---	---------------	-----	------------	------------------	-------------------------	---------------	-----	------------	------------------	-------------------------

26
-

7	Month Day Year	F	<input type="checkbox"/>	01	<input type="checkbox"/>	Month Day Year	F	<input type="checkbox"/>	02	<input type="checkbox"/>
---	----------------	---	--------------------------	----	--------------------------	----------------	---	--------------------------	----	--------------------------

27
-

8	Name - exactly as printed on registration				Name - exactly as printed on registration			
---	---	--	--	--	---	--	--	--

28
1

9	CREEM, FRANCES M				OLSON, BETTY M			
---	------------------	--	--	--	----------------	--	--	--

29
-

10	Address (Include Number and Street)				Address (Include Number and Street)			
----	-------------------------------------	--	--	--	-------------------------------------	--	--	--

30
-

11	59 CHURCH ST				254 HOLLOW RD			
----	--------------	--	--	--	---------------	--	--	--

31
-

12	City or Town				State Zip Code			
----	--------------	--	--	--	----------------	--	--	--

32
1

13	NEW PALTZ	NY	12561	STAATSBURG	NY	12580
----	-----------	----	-------	------------	----	-------

33
-

14	Plate Number	State of Reg	Vehicle Year & Make	Vehicle Type	Ins. Code	Plate Number	State of Reg	Vehicle Year & Make	Vehicle Type	Ins. Code
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34
-

15	BYM9383	NY	1991 BUIC	4DSD	328	NYCOM48	NY	2003 SUZI	4DSD	639
----	---------	----	-----------	------	-----	---------	----	-----------	------	-----

35
-

16	Ticket/Accident Number(s)				Violation Section(s)			
----	---------------------------	--	--	--	----------------------	--	--	--

36
-

17	Violation Section(s)				Violation Section(s)			
----	----------------------	--	--	--	----------------------	--	--	--

37
-

18	Check if involved vehicle is:				Check if involved vehicle is:			
----	-------------------------------	--	--	--	-------------------------------	--	--	--

38
-

V	<input type="checkbox"/> more than 95 inches wide;	V	<input type="checkbox"/> more than 95 inches wide;
---	--	---	--

39
-

E	<input type="checkbox"/> more than 34 feet long;	E	<input type="checkbox"/> more than 34 feet long;
---	--	---	--

40
-

H	<input type="checkbox"/> operated with an overweight permit;	H	<input type="checkbox"/> operated with an overweight permit;
---	--	---	--

41
-

I	<input type="checkbox"/> operated with an overdimension permit	I	<input type="checkbox"/> operated with an overdimension permit
---	--	---	--

42
-

VEHICLE 1 DAMAGE CODES				VEHICLE 2 DAMAGE CODES			
------------------------	--	--	--	------------------------	--	--	--

43
-

C	Box 1 - Point of Impact	1	2	C	Box 1 - Point of Impact	1	2
---	-------------------------	---	---	---	-------------------------	---	---

44
-

L	Box 2 - Most Damage	8	8	L	Box 2 - Most Damage	8	8
---	---------------------	---	---	---	---------------------	---	---

45
-

E	Enter up to three more damage codes	3	4	E	Enter up to three more damage codes	3	4
---	-------------------------------------	---	---	---	-------------------------------------	---	---

46
-

1	1	1	2	2	7	9	10
---	---	---	---	---	---	---	----

47
-

Vehicle Bv: BILLS TOWING Towed To: BILLS TOWING				Vehicle Bv: BILLS TOWING Towed To: BILLS TOWING			
---	--	--	--	---	--	--	--

48
-

VEHICLE DAMAGE CODING: 1-13 SEE DIAGRAM ON RIGHT.							
--	--	--	--	--	--	--	--

49
-

14. UNDERCARRIAGE	17. DEMOLISHED
-------------------	----------------

50
-

15. TRAILER	18. NO DAMAGE
-------------	---------------

51
-

16. OVERTURNED	19. OTHER
----------------	-----------

52
-

See the last page for the accident diagram.							
---	--	--	--	--	--	--	--

53
-

Cost of repairs to any one vehicle will be more than \$1000. <input type="checkbox"/> Unknown/Unable to determine <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No							
--	--	--	--	--	--	--	--

54
-

Reference Marker Coordinates (if available) Place Where Accident Occurred:							
--	--	--	--	--	--	--	--

55
-

3	2	Latitude/Northing:		County <u>ULSTER</u> <input type="checkbox"/> City <input type="checkbox"/> Village <input checked="" type="checkbox"/> Town of <u>ROSENDALE</u>			
---	---	--------------------	--	--	--	--	--

56
-

8	6	0	2	Road on which accident occurred <u>ROUTE 32</u> (Route Number or Street Name)			
---	---	---	---	---	--	--	--

57
-

1	1	8	7	at 1) intersecting street _____ or 2) <u>100</u> feet <input type="checkbox"/> N <input checked="" type="checkbox"/> S <u>PARKCREST DR</u> (Route Number or Street Name) <input type="checkbox"/> E <input type="checkbox"/> W (Milepost, Nearest intersecting Route Number or Street Name)			
---	---	---	---	---	--	--	--

58
-

Accident Description/Officer's notes V1 WAS TRAVELING N/B ON ROUTE 32 BEHIND V2. WHEN V1 WAS COMING DOWN THE HILL, V2 WAS STOPPED DUE TO CONSTRUCTION AHEAD. V1 WENT TO APPLY THE BRAKES AND THE BRAKES FAILED. V1 STRUCK V2. REPORTING OFFICER DID FIND A PUDDLE OF BRAKE FLUID ON THE ROADWAY UNDER V1.							
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59
-

Names of all involved Date of Death Only							
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A	1	1	4	1	76	F	X	X	6	11372ET	5503	CREEM, FRANCES M	
B	2	1	4	1	63	F	04	14	6	11363ET	5501	OLSON, BETTY M	
C	2	3	4	1	56	F	04	14	6	11363ET	5501	WEISS, JUDITH H	
D													
E													
F													

Officer's Rank and Signature PO <i>R.H.L.B.</i>	Badge/ID No.	NCIC No.	Precinct/Post Troop/Zone	Station/Beat Sector	Reviewing Officer Buboltz, Andrew J	Date/Time Reviewed 9/25/2006 10:01
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Local Codes
06-1166
6SRPD4000047

POLICE ACCIDENT REPORT

MV-104A (3/04)

 AMENDED REPORT

Accident Date		Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene	<input type="checkbox"/>	Left Scene	Police Photos
Month	Day	Year					Accident Reconstructed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9	18	2006	Monday	15:00	2	3	0	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



